

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES

Before the Commissioner of the Office of Financial and Insurance Services

In the Matter of:

New Century Mortgage Corporation
18400 Von Karman, Suite 1000
Irvine, California 92612

Enforcement Case No. 07-5003

License No. FL – 0971
Registration No. SR – 0017

Brad Alexander Morrice, CEO,

and

Home123 Corporation
18400 Von Karman, Suite 1000
Irvine, California 92612

License No. FL – 1997
Registration No. SR – 0648

Brad Alexander Morrice, CEO,

Respondents.

CONSENT ORDER TO CEASE AND DESIST FROM VIOLATING
THE MORTGAGE BROKERS, LENDERS, AND SERVICERS LICENSING ACT
and
ORDER TO FILE SPECIAL REPORT

Issued and Entered,
This 27th day of March, 2007,
By Richard D. Lavolette,
Chief Deputy Commissioner

Based upon the Stipulation to Entry of Consent Order executed by New Century Mortgage Corporation (“New Century”) and Home123 Corporation (“Home123”) (collectively, the “Respondents”) and the files and records of the Office of Financial and Insurance Services (“OFIS”) in this matter, the Commissioner FINDS and CONCLUDES that:

1. The Commissioner has jurisdiction and authority to adopt and issue this Consent Order in this proceeding, pursuant to the Michigan Administrative Procedures Act of 1969 (“MAPA”), as amended, MCL 24.201 *et seq.*, the Mortgage Brokers, Lenders, and Servicers Licensing Act (“MBLSLA”), 1987 PA 173, as amended, MCL 445.1651 *et seq.*, and the Secondary Mortgage Loan Act (“SMLA”), 1981 PA 125, as amended, MCL 493.51 *et seq.*

2. All required notices have been issued in this case, and the notices and service thereof were appropriate and lawful in all respects.

3. Acceptance of the parties’ Stipulation to Entry of Consent Order is reasonable and in the public interest.

4. All applicable provisions of MAPA have been met.

5. On or about March 13, 2007, Respondents substantially lost their ability to fund loans through their warehouse line(s) of credit and, as a result, Respondents were unable to fund their mortgage loans.

6. Respondents failed to timely fund several closed mortgage loans in accordance with a written commitment to make a mortgage loan on Michigan residential property following closing.

7. Respondents have provided OFIS Staff with reports showing the closed and unfunded Michigan mortgage loans.

8. The closed and unfunded Michigan residential mortgage loans included several first mortgage loans and a few secondary mortgage loans.

9. Section 22(a) and (k) of the MBLSLA, MCL 445.1672(a) and (k), provides as follows:

It is a violation of this act for a licensee or registrant to do any of the following:

(a) Fail to conduct the business in accordance with law, this act, or a rule promulgated or order issued under this act.

* * *

(k) Fail to make a mortgage loan in accordance with a written commitment to make a mortgage loan issued to, and accepted by, a person when the person has timely and completely satisfied all the conditions of the commitment before the expiration of the commitment.

10. Section 24(2)(h) of the SMLA, MCL 493.74(2)(h), provides as follows:

It is a violation of this act for a licensee or registrant to do any of the following:

* * *

(h) Fail to make a mortgage loan in accordance with a written commitment to make a mortgage loan issued to, and accepted by, a person when the person has timely and completely satisfied all the conditions of the commitment before the expiration of the commitment.

11. Section 16(1) of the MBLSLA, MCL 445.1666(1), provides as follows:

(1) After an investigation has been conducted pursuant to section 13, and prior to holding a hearing under section 18, the commissioner may order a person to cease and desist from a violation of this or a rule promulgated or an order issued under this act.

12. Section 21(3) of the MBLSLA, MCL 445.1671(3), provides as follows:

(3) On or before a date to be determined by the commissioner, a licensee or registrant shall annually file with the commissioner a report giving information, as required by the commissioner, concerning the business and operations of the licensee or registrant under this act during the immediately preceding calendar year. In addition, the commissioner may require a licensee or registrant to file special reports as the commissioner considers reasonably necessary for the proper supervision of licensees or registrants under this act. Reports required pursuant to this section shall be in the form prescribed by the commissioner, signed, and affirmed. A person who willfully and knowingly subscribes and affirms a false statement in a report required pursuant to this subsection is guilty of a felony, punishable by imprisonment for not more than 15 years.

13. It is a violation of the MBLSLA for a licensee or registrant to fail to comply with the law or the MBLSLA and it is a violation for a licensee or registrant to fail to fund a first mortgage loan in accordance with a written commitment.

14. It is a violation of the SMLA for a licensee or registrant to fail to fund a secondary mortgage loan in accordance with a written commitment.

15. Respondent's failure to fund first mortgage loans in accordance with a written commitment is a violation of Section 22(k) of the MBLSLA, MCL 445.1672(k).

16. Respondent's failure to fund secondary mortgage loans in accordance with a written

commitment is a violation of Section 24(2)(h) of the SMLA, MCL 493.74(2)(h), and, therefore, a violation of Section 22(a) of the MBLSLA, MCL 445.1672(a).

17. The Commissioner is authorized pursuant to Section 16(1) of the MBLSLA, MCL 445.1661(1), to order a person to cease and desist from a violation of the MBLSLA.

18. The Commissioner is authorized pursuant to Section 21(3) of the MBLSLA, MCL 445.1671(3), to order a licensee or registrant to make a special report that the commissioner considers reasonably necessary for the proper supervision of licensees or registrants under this act.

NOW THEREFORE, based upon the parties' Stipulation to Entry of Consent Order and the facts surrounding this case, the Stipulation to Entry of Consent Order submitted by the parties to the Chief Deputy Commissioner is hereby ACCEPTED; and,

IT IS HEREBY ORDERED that Respondent New Century and Respondent Home123 shall immediately CEASE AND DESIST from violating the MBLSLA as set forth above.

IT IS FURTHER ORDERED that Respondent New Century and Respondent Home123 shall CEASE AND DESIST accepting, from either consumers or mortgage brokers, any applications for residential first or secondary mortgage loans secured by Michigan real property, until such time as Respondent New Century or Respondent Home123 demonstrates to the commissioner that it has the necessary resources and capability to fund loans and receives written consent from the commissioner.

IT IS FURTHER ORDERED that Respondent New Century and Respondent Home123 shall immediately place with one or more qualified lender(s), with no loss to applicants, the Respondent's entire portfolio of Michigan Residential mortgage loans which were closed by Respondents but not funded in accordance with Respondent's written commitment to make the mortgage loan. In the event that the Respondent New Century or Respondent Home123 is unable to find a qualified lender willing to fund, or close, the mortgage loan under the same terms and conditions extended by Respondent, Respondent shall either independently fund the mortgage loan under such terms and conditions or buy down the mortgage loan offered by the qualified lender so that the applicant does not incur a loss as a result of such placement.

IT IS FURTHER ORDERED that Respondent New Century and Respondent Home123 shall immediately notify all Michigan mortgage loan applicants or the mortgage loan applicant's

broker of the status of applications submitted to Respondent or loans closed with Respondent but not funded and the likelihood of funding.

IT IS FURTHER ORDERED that daily, upon the effective date of this ORDER, Respondent New Century and Respondent Home123 shall file with the Commissioner a Special Report which, at a minimum, provides, the name, address, and telephone number of each Michigan consumer that closed a residential mortgage with Respondents that Respondents failed to timely fund after closing; the terms under which each of the closed and unfunded residential mortgage loans closed; the actual closing date; the loan number; the amount of all prepaid loan fees paid by the consumer; the amount of the loan; the funding status of each residential mortgage loan that Respondents closed for a Michigan consumer and failed to timely fund; and, if the Michigan consumer whose residential mortgage loan was closed and unfunded by Respondents subsequently obtained a residential mortgage loan from alternate lender, the terms under which the residential mortgage loan was subsequently funded, and the name and contact information of the person at the alternate lender familiar with Respondent's submitted loans.

The Special Report set forth above shall continue and be updated daily until such time as all loans to Michigan consumers or secured by Michigan residential real property are funded. No later than 5 P.M. EST each day, the Special Report shall be sent to:

Kirt L. Gundry, Director
Mortgage Examination and Investigation Section
Michigan Office of Financial and Insurance Services
P.O. Box 30220
Lansing, Michigan 48909
Telephone: (517) 373-0237
Fax: (517) 335-1501

IT IS FURTHER ORDERED that Respondents shall immediately release any lien filed on any Michigan real property as a result of a residential mortgage loan closing with Respondents but not being funded. In the event that Respondents subsequently fund the loan, Respondents may file a lien on the property at that time.

IT IS FURTHER ORDERED that this ORDER shall be and is effective immediately upon the date in which it is entered as shown in the caption hereof, and shall remain in effect unless terminated, modified, set aside, or suspended in writing by the commissioner.

Nothing in this Order shall prevent Respondents from selling or assigning mortgage loans to another entity, servicing closed mortgage loans or engaging in other activity not prohibited herein or by the MBLSLA or SMLA.

The Commissioner specifically retains jurisdiction of the matter contained herein to issue such further order or orders as she may deem just, necessary, or appropriate to assure compliance with the law and protect the public interest.

IT IS SO ORDERED.


Richard D. Lavolette
Chief Deputy Commissioner